

According to Ceballos's statement, he was told by Reed's stepson that Reed grew marijuana in his home. On January 4, 2008, Ceballos called Doug Wells and asked if he wanted to "go get some weed." Wells agreed and invited Bryce Roberts. Roberts drove the three to Reed's home. While Roberts waited in the vehicle, Ceballos pushed through the front door, and he and Wells entered the house looking for marijuana. They found some marijuana plants and saw guns "laying everywhere." Ceballos said that Wells took a gun, and they left. Ceballos stated that after he was dropped off at home, he called another friend, Dustin Birge, and told him about the marijuana at Reed's house. Birge picked up Ceballos, and they went back to Reed's house. Both entered the home and "looked for marijuana," but did not find any. They did find six guns, which they took. The testimony at trial of Roberts and Birge mirrored the information Ceballos provided in his statement.

Counsel for Ceballos moved for a directed verdict at the close of the State's case and renewed the motion after the defense rested. Counsel argued that the State failed to present sufficient evidence to support a conviction for both counts of residential burglary because evidence of Ceballos's intent to commit theft was lacking. The motions were denied, and Ceballos was convicted of all four counts.

On appeal, Ceballos only challenges the count-one residential-burglary conviction.¹

¹Ceballos does not challenge the convictions for the second count of residential burglary and the two counts of theft of property. Specifically, regarding the second count of residential burglary, Ceballos concedes that "the record contains some evidence that, at the time of his second illegal entry into Reed's residence, Ceballos intended to take firearms contained therein. . . . A firearm, unlike marijuana, can obviously have a rightful owner to whom it could be returned pursuant to section 5-5-101(a) [the forfeiture statute] and therefore does not qualify as contraband falling within the scope [of] section 5-5-101(c)." Accordingly, Ceballos does not challenge his conviction for residential burglary as

He argues that the trial court erred in denying his motions for directed verdict, contending that the evidence is insufficient on the requisite element of intent. Specifically, he argues that because Ceballos’s intent was to steal only marijuana, which is contraband under the forfeiture statutes² and can have no rightful owner, it cannot be construed as “property of another person” subject to the theft statute.

The standard of review in cases challenging the sufficiency of the evidence is well established. We treat a motion for a directed verdict as a challenge to the sufficiency of the evidence. *Branscum v. State*, 345 Ark. 21, 43 S.W.3d 148 (2001). This court has repeatedly held that in reviewing a challenge to the sufficiency of the evidence, we view the evidence in a light most favorable to the State and consider only the evidence that supports the verdict. *Stone v. State*, 348 Ark. 661, 74 S.W.3d 591 (2002). We affirm a conviction if substantial evidence exists to support it. *Id.* Substantial evidence is that which is of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or the other, without resorting to speculation or conjecture. *Haynes v. State*, 346 Ark. 388, 58 S.W.3d 336 (2001).

The offense of residential burglary requires proof that the defendant entered or remained unlawfully in a residential occupiable structure of another person and that he did so with the purpose of committing an offense punishable by imprisonment. Ark. Code Ann. § 5-39-201 (Repl. 2006). A person acts purposely when it is his conscious object to engage

charged in Count II of the amended information.”

²Ark. Code Ann. § 5-5-101–404 (Repl. 2006) (governing the disposition of contraband and seized property).

in conduct of that nature or to cause such a result. Ark. Code Ann. § 5-2-202(1) (Repl. 2006).

The State charged Ceballos with residential burglary, alleging that the “offense punishable by imprisonment” was theft of property. A person commits theft of property if he knowingly takes the property of another person with the purpose of depriving the owner of the property. Ark. Code Ann. § 5-36-103(a)(1) (Supp. 2007).

Ceballos argues that the first count of residential burglary cannot stand because, when he entered Reed’s home the first time, he only intended to steal marijuana, which is an illegal contraband that cannot be construed as “property of another person” and lacks a rightful owner. For support, he cites the forfeiture statutes, which provide, in pertinent part, that “[a]ny seized property shall be returned to the rightful owner or possessor of the seized property except contraband owned by a defendant.” Ark. Code Ann. § 5-5-101(a). He further argues that under the forfeiture statutes, “[c]ontraband shall be destroyed.” Ark. Code Ann. § 5-5-101(c)(1).

These statutes fail to support Ceballos’s argument as they do not provide that contraband cannot be owned. To the contrary, section 5-5-101(a) discusses the disposition of seized contraband in the context of ownership. This section expressly states that seized contraband owned by a defendant shall not be returned. Therefore, this statute recognizes that contraband can be owned. Further, the theft statutes define “property” as tangible personal property that represents or embodies anything of value. Ark. Code Ann. § 5-36-101(7) (Repl. 2006). “Property of another person” is defined as any property in which any person other than the actor has a possessory or proprietary interest. Ark. Code Ann. § 5-36-101(8)(A)

(Repl. 2006). Clearly, marijuana has value and is subject to possession; therefore, it falls within the definitions of “property” and “property of another person” contained in the theft statutes. Because there was overwhelming evidence of Ceballos’s intent to steal marijuana from Reed’s home, the trial court did not err in denying Ceballos’s motion for directed verdict on count one residential burglary.

Finally, to the extent that Ceballos argues that his intent should be determined solely by his initial plan to only steal marijuana, we disagree. Intent may be inferred from circumstantial evidence. *Rudd v. State*, 308 Ark. 401, 825 S.W.2d 565 (1992). Moreover, facts establishing intent while inside a home should also be considered. *See Adkins v. State*, 63 Ark. App. 203, 979 S.W.2d 903 (1998) (affirming conviction for residential burglary where defendant unlawfully entered home and walked toward homeowner’s stereo equipment before he was chased out by the owner). Ceballos’s intent may be inferred from all of the surrounding circumstances, which included his intent before he entered the home and his intent after he unlawfully remained there. Those circumstances include the fact that he forcibly entered Reed’s home, remained there unlawfully, and while inside took marijuana a gun from the home.

In sum, sufficient evidence of Ceballos’s intent under the theft statute was presented by the State, supporting the conviction for count one residential burglary. Accordingly, the trial court did not err in denying his motions for directed verdict.

Affirmed.

ROBBINS and BAKER, JJ., agree.